The Limits of Memory and the News: Archival Journalism, Law, Ethics, and the Right to be Forgotten

Los límites de la memoria y la información: periodismo, ética y el derecho al olvido

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ABSTRACT: The right to be forgotten has been widely discussed from a legal perspective. Courts have analyzed the existence and constitutional compatibility of the right in the national legal order of several jurisdictions around the world. However, even if the right to be forgotten is not a universally recognized right, by understanding how the law approaches tensions that arise between the right to freedom of expression and the rights to seek, impart and receive information, on one hand, and a right to be forgotten, underpinned by the rights to honor, privacy and personal data protection on the other, journalists can extract ethical guidelines that can orient them in the correct use of archival information about individuals to report on current events. This work begins by explaining how legal debates can help inform ethical discussions about journalism. Then, by exploring the legal development and justifications for the right to be forgotten and identifying key elements of this emerging right, we engage in a discussion around the use of archives and memory in journalism and then identify the elements that journalists should consider in relation to the use of archival information in their profession in a way that allows them to fulfill their journalistic duties without ignoring the legal context.

Keywords: right to be forgotten; ethics; law; journalism; media.

RESUMEN: El derecho al olvido ha sido ampliamente discutido desde una perspectiva legal. Jueces y tribunales alrededor del mundo han dilucidado acerca de la existencia de este derecho y su encaje constitucional en distintas jurisdicciones. Sin embargo, aún si el derecho al olvido no es un derecho reconocido universalmente, comprender cómo resolver legalmente las tensiones que emergen respecto de la libertad de expresión y los derechos a buscar, recibir e impartir información, por un lado, y un derecho al olvido que se apoya la protección del honor, la privacidad y los datos personales por el otro, permiten al periodista extraer lineamientos éticos a los cuales recurrir para orientar el uso correcto de información de archivo acerca de otros individuos a la hora de informar sobre hechos noticiosos en el presente. Este trabajo empieza por explicar cómo los debates legales pueden ayudar a construir discusiones éticas sobre el periodismo, para luego analizar el desarrollo legal y las justificaciones detrás del derecho al olvido y así identificar los elementos clave de dicho derecho emergente. De esta manera, es

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posible sostener una discusión útil sobre el uso de archivos y memoria en el periodismo, respetando el sentido periodístico, pero sin desconocer el contexto legal.

Palabras clave: derecho al olvido; ética; derecho; periodismo; medios de comunicación.

1. Introduction

From the point of view of journalists, the internet, and big tech platforms, pose a serious challenge to journalism because they have contributed to compromise the economic sustainability of news media enterprises (Kaye & Quinn, 2010; Stremlau, Gagliardone &Price, 2018; Cetina Presuel & Martinez Sierra, 2019) and contributed to erode the reputation and legitimacy of the press as a democratic institution (Bennet & Livingston, 2018; Chesney & Citron 2018; Donovan 2020).

At the same time, journalists understand that the internet occupies a central position in the development of contemporary journalism and that it is an essential tool for the profession. The internet is understood as essential for news distribution and for reaching, connecting, and interacting with audiences. It is also seen as a tool used to find information that can then be reported in the news. Journalists understand very well that as a tool, it can be used for good and leveraged to exercise the rights to seek, receive and impart information -rights enshrined in the Universal Declaration of Human Rights of 1948 and associated international treaties- to fulfill the duty of keeping the public informed about current issues and about people relevant to public life.

There are always two sides to a coin, and particularly within the context of social media, in a state of transition when it comes to journalistic practice (Bossio & Bebawi, 2016), and as journalism changes as it becomes more and more networked (Heinrich, 2011), the internet can also be used to spread disinformation and misinformation, particularly when journalists succumb to mechanized conceptions of communication and information distribution that give preference to efficiency in its distribution (Mattelart, 2003) instead of prioritizing careful reporting, the minimization of inaccuracies or the adequate handling of sources. Journalism, as exercised through the internet, can lead to a preference for immediacy and cost reduction that comes at the cost of level-headed and reflective reporting based on the rigorous collection of information, careful writing, and responsible communication to society. For Sánchez Sánchez (2012) internet journalism runs the risk of becoming desk journalism limited to literal transcription and cut and paste that forgets duties towards sources and readers.

As it exists today, the internet functions following the logics of big tech platforms that focus on the indiscriminate distribution of information of any kind. Social media platforms are in the business of surveillance capitalism (Zubboff, 2019) in which information, and journalism, are merely a means to an end, namely, keeping users engaged and using the platforms for the purpose of collecting, processing and monetizing their personal data through the creation of imperfect (Pasquale 2015) and artificial (Wu & Taneja, 2021) profiles that can be turned into profit by delivering supposedly personalized advertising and purportedly tailored content that keeps users coming back to use the platforms in order to feed a cycle that will lead to more substantial quarterly earnings. Within this context, platforms perpetuate continuous control through constant communication of information in the name of profit (Mattelart, 2003). Thus, for these companies, it is not important if the information is true or false, if they deliver quality journalistic content, if they distinguish between news reporting, entertainment, or advertising, or if information is currently relevant or old and no longer newsworthy.

It is in this context, in which the goal is not necessarily keeping the public as well-informed as possible (Vaidhyanathan, 2018) and where freedom of expression and communication rights are at best secondary goals (Ghosh, 2020; Cetina Presuel, 2021) that other rights, such as privacy or personal data protection become secondary concerns for the platforms and can also become secondary con-

cerns for journalists themselves. In a journalistic profession that is lacking in means but abundant in precarity -particularly in areas like Latin America (Odriozola Chené 2019; Gutiérrez Atala et al., 2015)- the wealth of all kinds of information available online, including personal information, can be tempting. Where before, journalists had to invest significant time, money, and effort to search for the news, now they can work from a desk and a computer, using the internet as their sole source, sometimes leading the journalist to use personal information as an element in the news, or archival information about individuals that can then be resurfaced and turned into a current news item. Research shows that journalists find themselves "in increasingly time-pressured, demanding working environments as their industry adapts to rising competition from the internet as a platform for advertising as a provider of news, while newsrooms bring digital technologies into all aspects of the news production process" (Dickinson et al., 2013, p. 4). Precarity leads journalists to use the internet as a source for the news and internet itself imposes a rhythm so fast that leaves journalists with little time to contrast their information (Sánchez Sánchez, 2012).

Journalists have always been aware about existing tensions between the fundamental rights of individuals and the free exercise of their profession. These tensions have been identified at very start, from the emergence of the modern conception of privacy in the 19th century (Cornwell & Stephenson, 2004; Gaida, 2008; McStay, 2017). We can particularly identify tensions between freedom of expression on the one hand, and privacy and the protection of personal data on the other. as "the desire to comment on, analyze, or write about aspects of people's private lives will always raise questions about where the boundaries should lie between what is public and what is private" (Harris & Hughes, 2014, p. 174).

It is well known that new conflicts will constantly emerge in this context. Information related to any anonymous citizen has become part of what Kathy English (2009), editor of the Toronto Star, called the *long tail* of internet content, easily "searchable" and permanently "accessible" (Silverman, 2009). Often, it is enough that a piece of content has been published online for search engines, such as Google search, to index it and quickly make it available to everyone for an indefinite period. While this is inevitable, and a problem in and on itself, a bigger problem arises when what is published is related to sensitive information from a journalistic point of view, such as information that contains errors, content that is potentially defamatory, that can affect people´s privacy or that, even if true, includes information about an unflattering past, long thought forgotten, and that reappears in the results page of a search engine over and over again.

English (2009) has been approaching these topics for some years now, inquiring about the state of North American media through surveys with editors in the United States and Canada. Those surveys show that in these countries there is a greater tendency to demand the disappearance of digital archives, and at the same time, also greater resistance to eliminate news articles as this is perceived as an assault on the principles of credibility and transparency of the press. According to (Guallar, 2010), these cases represent the most difficult dilemmas that the press and the media face in relation to the right to information and respect for individual rights, since the harm that a piece of information, no matter how small, can cause a person, can be very serious.

All of those tensions are evident in debates about memory and forgetting. Such tensions surface, for example, in the complicated balance between memory and the news that has always been part of news-making, and particularly in relation to the so-called right to be forgotten, (Brock, 2016; Jones, 2016; Youm & Park, 2016; Tirosh, 2017; Moreno, 2019).

Within the context of journalism, the right to be forgotten calls for the elimination of information once it has lost its newsworthiness and thus ceases to be interesting for the public (Castellano, 2013). This right is particularly relevant for the journalistic profession, as its regulation may determine

what journalists can and cannot do with certain archival information related to individuals and when they may be exposed to liability for their actions. But the debate that has been started about the meaning of this right, and its limits, may also help inform debates about the journalistic profession itself as new legal obligations and ethical duties can be identified as a result.

Debates may arise in relation to how news making should be balanced against harms to both individuals and the audience (Roberts, 2019). Ethical dilemmas may arise in relation to when it is justifiable to respond to requests to unpublish content to protect the interests of individuals and when journalists should not accede to such request to protect traditional ethical news values because there is no justification to delete already published truthful information (McNealy & Alexander, 2017).

While the right to be forgotten is not a right recognized in every country of the world, with a relatively small number of countries recognizing it in their laws or through judicial interpretation, and with others rejecting its constitutional compatibility, connections can be identified between the legal debates around the right to be forgotten and ethical debates related to the exercise of journalism, the tensions between memory and the news and how journalists should treat archival information related to individuals and their past. This can be done in the same way that news organizations use say, First Amendment and other legal rights to justify what information ought to be published or not (Roberts, 2019).

In this work we explore the legal mandates and ethical guidelines related to the use of archives and collective memory about the past actions of individuals in current news cycles as a journalistic practice. By identifying the central parts of the legal debate around the right to be forgotten, we seek to identify and discuss the central elements that can be incorporated into an ethical debate about the journalistic profession that pivots around the concepts behind a right to be forgotten and the use of archival information about individuals when reporting current events.

For this, first we situate the dilemmas related to journalistic practice and the uses of archives and then, we situate the limits of such a practice in the rights to privacy, personal data protection and a right to be forgotten. Then, we identify the elements that should be taken into account when ethical journalists evaluate their ethical duties when navigating the tensions between memory and highlight ethical considerations associated with the use or personal archival information in journalism.

2. Methodology and Justification

This work is a qualitative analysis that reflects upon journalistic practice and the legal and ethical duties associated with the use of archival information in the news, particularly when such information includes personal information about a person's past and specifically when it can affect fundamental rights such as privacy and personal data protection or generate tensions with freedom of expression and communication rights. Since our qualitative analysis is based on reflection, thinking and interpretation, the analysis was developed during the writing process of the authors, an activity that is part of the analytic process of qualitative research of this kind (Richardson, 2000).

The sources of the analysis include relevant legal doctrine related to freedom of expression, privacy and the right to be forgotten; legal doctrine related to ethics, deontology and the practice of journalism; documentary legal sources that include current and proposed legislation in different countries around the world, jurisprudence and case law from several different jurisdictions, all analyzed through comparative law. We combined this with our own perceptions and intuitions and can self-reflection to find insights into our view of the law (Eberle, 2011). For the selection of the countries, laws, and jurisprudence to study, we used non-probabilistic, deliberate sampling (Otzen & Manterola, 2013). Our goal is to conduct a deep qualitative analysis (Creswell 2009) with an explo-

ratory-descriptive scope (Taylor & Bogdan, 1984) that can lead us to draw insights from the studied legal instruments (Eberle, 2011).

In terms of structure, this article reflects first on the relationship between journalistic practice and archives and then upon how the law can help inform ethical debates about journalism, to then review and analyze, through comparative law, how, and if, the right to be forgotten has been constitutionally recognized and developed around the world. This allowed us to identify what elements justify the existence of the right to be forgotten and its constitutional sustainability, particularly when it conflicts with the right to free expression. With these elements identified, we analyze the law and then reflect on specific ethical guidelines to be considered when using archival information. Our conclusions sum up our reflections and suggest a set of fundamental elements to be included in ethical guidelines aimed at orienting how journalists should use archival information in a manner that can be respectful with what the values, ethical and legal, that the right to be forgotten seeks to protect.

3. Journalistic Practice, Archives and Memory

Traditionally, the creation of news not only involves reporting on current events. It also involves handling archival information (information *from the past*) used to frame and contextualize present-day information. Looking into the past allows journalists to focus and assign value to current events as only retrospectively events can be properly pondered, understood, and valued. It can be said that journalists engage in a sort of *archeology of information* or *archival journalism* if we borrow terms from archeology or information sciences.

Archival journalism -that today is exercised through complex information systems- can be understood as a series of processes aimed at finding, collecting, and communicating data that is not apparently newsworthy today, but that may be of journalistic interest, when recontextualized through the lens of current events that may need proper framing to be better explained and understood.

We could say that archival journalism seeks *to understand the past to be able to explain the future*. The use of archives in journalism allows communicators to understand, control and act upon a universe of messages that shape our current reality (Lopez Hernandez, 2000). But while "internet archives make a substantial contribution" to journalism, they "fulfil a secondary role; and given the absence of urgency in publishing the information, the press has a special duty to verify the accuracy of the information contained in them" (De Baets, 2016, p. 62).

If we understand news making as a process, it is a process that depends -among other things- on the capacity to link new information with old data, connecting available archival information with the current reality so that people that live in it can discover and understand the different interrelationships that exist, and contextualize and give sense to current newsworthy events. Between both dimensions or temporal categories is where communicating information related to the present and the past and the creation of collective memory start making sense. In this regard, it can be said that the news making process models the perception of public events and progressively builds our collective memories through historical events (Calabrese, 2009).

If journalism is both a discipline and a service, then, to meet the standards related to the proper knowledge and understanding of reality and its correct public communication, archives emerge as essential (Galdón, 1993) because it is necessary to have the proper documentation readily available as a tool for accessing memory as much as it is needed. Then, archives are a fundamental and indispensable factor in the exercise of journalism.

However, journalists must ask themselves how they can create and preserve the proper balance between memory and current events and what are the ethical and legal implications that this *archeology*

of information creates within the context of the production of news content. They should consider that all messages, and consequently, all messages based on archival information, have an essential component: publishing the truth, one of the "fundamental tenants of the codes of ethics of professional journalistic organizations" (McNealy & Alexander 2017, p. 395). A (supposedly) informative message that is not true cannot be considered news because it does the opposite: it disinforms. However, truth has many aspects, aligned with the different types of messages, that correspond themselves with the three methodological types of human thought: logical truth (messages that contain facts); operational truth (messages that contain ideas) and criteriological truth (messages that contain judgements). (Desantes, 1992).

Within the context of today's journalism, which requires reporting on complex news that require profound information (Odriozola-Chené et al. 2019), the aforementioned makes it necessary to look beyond logical and operational truths (so prevalent in contemporary media coverage) and focus on criteriological truth. This can only be achieved when journalists, while exercising their duty to inform, look both at the professional duties and ethical guidelines that serve as guidance on how to act as wee as their own judgment. Journalists must use their own judgment to decide if archival information should or should not be made current again as part of reporting current events. In the sense of archival journalism, journalists must understand that current news and archives are reciprocally cause and effect of each other within the context of news making (Desantes, 1992).

From a human rights perspective, the rights to seek, receive and impart information must be understood as multiple aspects of the right to freedom of expression, or collectively, as communication rights (Sánchez Ferriz & Corredoira, 2017). This also means that journalists must be able to discern, using their own judgement, between information related to the private lives of individuals that should be made public due to its newsworthiness -its relation to a current and relevant news event- and private information that must remain undisclosed. And this of course, can include archival information that may be resurfaced as part of reporting current events.

Digital technologies have made the situation more complex as "until recently, the fact that remembering has always been at least a little bit harder than forgetting helped us humans avoid the fundamental question of whether we would like to remember everything forever if we could" (Mayer-Schönberger, 2009, p. 49). Digital technologies have somewhat suspended "society's ability to forget" (Mayer-Schönberger 2009, p. 8) leading, and at an individual level, to the loss of the "fundamental human capacity… to live and act firmly in the present" free of the mistakes of the past (Mayer-Schönberger, 2009, p. 14); and at a collective level allowing society to forget to give "individuals who have failed a second chance" enabling "mechanisms of societal forgetting, of erasing external memories" so that society can "accept that human beings evolve over time" and can "learn from past experiences and adjust our behavior (Mayer-Schönberger, 2009, p. 14). Individual and societal forgetting affords people the opportunity to change for the better and lets collectives move on, turn the page. The fact that digital archives can be universally accessed at almost any time, can be a source for both harm as stress for individuals "who are directly or indirectly connected to new stories that were published years ago but retrievable today" (Azurmendi, 2021, p. 371).

Seeking tools to reclaim the advantages of individual and societal forgetting and seeking to protect themselves against harm, individuals may request the unpublishing of certain information that refers to them. This act, unpublishing is defined as "the act of deleting factual content that has been previously published online in response to an external request prompted by personal motivations such as embarrassment or privacy concerns" (Schmidt, 2019).

Related to this need of individual and societal forgetting and to the rights to honor, privacy and personal data protection, journalists will often come face to face with the dilemma of if personal

information related to a particular person is relevant today and that if such information is worth remembering and it should be *re-remembered* by their audiences. In other words, the dilemma is if archival information should be reported again and made current repeatedly. In contrast, a journalist must be able to decide when such information must remain archived to protect the privacy and personal data of individuals, or their right to honor. This is so because to ensure that their information remains archived, individuals may invoke a right to be forgotten, when available, that may result in legal remedies that include removing the information from records or disabling access to it from search engines or other digital archives. But beyond legal liabilities, requests to eliminate, redact or correct information about a person´s past may lead journalists to ponder if such a claim has merit and if it is worth altering the record to protect the interests of individuals.

Just as technology makes forgetting more difficult, it also makes it easier to alter archives and records. However, precisely because "technology makes it relatively easy for news organizations to alter online content" (English, 2009, p. 3) journalists need to ask themselves if they should do it, just because they can. This makes it necessary to search for guidance that may inform journalistic practice and can help them decide.

4. Journalism, Memory and Emerging Rights: How Legal Debates can inform Ethical debates in the Digital Context.

When we speak of how the law can inform ethical debates, we do not mean to get into a debate of how well legal prescriptions can translate into ethical ones. We acknowledge that "the roots of all law lie in ethics: legislation and the common law codify a society's perceived consensus on rights and wrongs, and courts then apply those principles to life-specific situations" (Shapiro & Rogers 2017, p. 1104). At the same time, we understand full well that what is legal does not always translate directly into what is ethical and that both can be even at odds with each other (Kamm, 2016). That is not the type of discussion that this paper seeks.

What we mean instead is that legal debates centered around certain rights recognized in the law, particularly rights that have emerged more recently, such as the right to be forgotten, can inform ethical debates centered about journalistic practice and can be helpful in generating guidelines that journalists may follow. Rights are not static, they are "dynamic, responsive to new circumstances and consciousness, and change as our ideas of the good society change" (Schulz & Raman, 2020, p. 53). New rights "often arise from the grassroots level as people experience affronts to their dignity or imagine a new conception of what is required to maximize human capabilities and then organize to get and old right revised or a new one recognized" (Schulz & Raman, 2020, p. 37).

Reaching the consensus necessary for the recognition of new social practices obviously takes time. Norms emerge through a slow and "complicated process of changing interests among the powerful, the introduction of new technologies, the spread of education and consciousness, and many other factors" and when social norms change, laws tend to eventually follow (Schulz & Raman, 2020, p. 37).

While the right to be forgotten has not been universally adopted across jurisdictions like many human rights have, such as privacy for example, it is still interesting to construct an ethical debate around what it purports to protect. A lack of worldwide consensus about this right, even the lack of a putative consensus resulting from adoption by a significant number of states (Schulz & Raman, 2020) should not deter us from such an exercise. In fact, anticipating societal change, including legal change, can be advantageous as there is more time to ponder, analyze and learn from experience.

Since the adoption of good practices tends to be quicker than the adoption of new legal norms, enabling journalists to better respond to societal needs may be equally advantageous. That is why we

seek to analyze the right to be forgotten and the societal demands and needs it seeks to meet as we believe it may be a useful exercise that can lead to a discussion that can be helpful in developing journalistic practices that enable professionals to navigate situations regarding this new societal need.

We believe this is particularly true, and advantageous regarding any overlap between technology and contemporary journalism, particularly given the speed with which technologies lead to change and may also expose society to certain harms.

There is an intersection between journalism, technology and the use of memory that implies a permanent tension between the three. In a current context of hyperconnectivity and surveillance capitalism it is inevitable that there will be great potential for the violation of fundamental rights, including privacy and personal data protection, which makes it necessary to explore what other new and emerging rights are the most appropriate to protect the users of technology, and what laws that can achieve this goal ought to include.

This situation is especially complex within the framework of a new digital paradigm where a large number of different media exist that represent alternative communication realities, markedly different from the institutional reality of conventional media (Torres-Martin & Castro-Martinez, 2021). These media escape systematic organization and, thus, can be considered alternative, peripheral or extra-system. Here we can include digital media that distribute themselves largely through social media platforms, but also through messaging apps such as WhatsApp, Discord or Telegram.

It is fundamental to understand that journalism is a public interest service and that a democratic system relies on it because, in general, the information distributed by the media is the only point of reference that people have to learn about what is happening in the world around them and gather the information they need to make their own decisions. For Martin & De Pablos Coello (2004) democracy needs a communication system that allows citizens to: confront different points of view, access to quality information, know about all kinds of newsworthy events and away from all forms of secrecy and, participation, as complete as possible, in collective decision-making processes.

The changes that the media ecosystem has experienced over the past decades has made it necessary to rethink the role of new platforms and the debates around their use, or as Castells (2012) would put it, mass self-communication. For example, unlike what we see in the traditional media ecosystem, digital media allow people to express their opinions and distribute them to large audiences without the need of an interview published in a media outlet.

Both Castells (2012) and Jenkins (2006) speak of the existence of a new media ecosystem in which traditional media (radio, the press, television) have lost their monopoly over communication. For these authors, we live in a transitional age where new and old media collide, which has led to a scenario we are yet to fully comprehend. The main difference in this *Culture of Convergence* is that the digital ecosystem functions under new logics that signify a paradigm shift and, in order to understand this digital ecosystem, we must study audiences closely, because changes go deeper than mere shifts in the ways media are consumed Castells (2012). According to Muro (2009) the origin of this shift responds to a change in productive systems related to how the internet has changed the rules for the market. As physical media is abandoned, the traditional distribution parameters change and, in that sense, the *long tail* we have referred to affects the production of symbolic goods by cultural industries.

This makes it necessary to look at communication from fundamental perspectives, such as epistemology, where the complex phenomenon of communication is directly linked to its legal and ethical dimensions and how they dictate the actions of communication professionals. Law and ethics together provide a framework that can be used to evaluate all phenomena originating from or related to mass communication and its effects.

All other perspectives that can be used to analyze communication are descriptive in nature, they either investigate communication itself or its consequences, but do not aim to evaluate them or critique them from the points of view of justice or of what ought to be good. In that sense, communication is susceptible of being studied as law and evaluated through the prism of reason and norms of justice. Communication can be studied as the object of a subjective right that is part of a juridical science and its corpus of national and international norms (Desantes, 1974).

However, epistemological analysis cannot ignore the practical dimension of communication. As said before, communication, as a professional activity, faces a complicated, even critical scenario where journalists endure a great deal of pressure (Mogollón & Gutiérrez, 2006; Gutiérrez Atala et al., 2016). That is why, one of the first challenges that a journalist faces when reflecting on the profession from the point of view of ethics and how to apply them to their job is the profession's sense of community which already implies a view that is somewhat critical of society.

Journalism ethics can look at legal norms as a tool to orient the communication process, particularly, in this case, the gathering of information and the use of archival sources. While this could lead us through a Kantian path where we confront the doctrine of virtue (based on duties imposed internally) and the doctrine of the law (based on duties imposed externally), specifically, in the case of the right to be forgotten, even if there are no specific laws that regulate or if there is no constitutional recognition of the right, the capacity to identify the fundamental elements related to human rights that may enter into conflict can help guide the actions of communicators, particularly in relation to quality control of the final communication product and in regard to the goal of satisfying the information needs of the public.

A series of processes and routines are involved in the creation of journalistic communication products. As argued by Deuze (2005) journalism organizes and defines itself and it is worth looking into how "this process of definition is structured, and how, in turn, this influences how journalism functions" (p. 862). These processes depend on the current realities of the profession as they are shaped by, among others, precarity (Odriozola Chené, 2019), disruption generated by technology (Bossio & Bebawi, 2016), or the combination of both (Sánchez Sánchez, 2012), leading to a profession that faces different pressures related to the internet and digital technologies (McChesney, 2003; Bockzowski, 2009; Saltiz & Dickinson, 2008; Beam et al., 2009; Singer & Ashman 2009).

These processes also depend on the structure of any given media company, of adopted professional ethics codes and enforceable legal norms related to the gathering and publication of information, the internal and external pressures that a journalist faces, and on the training and work conditions of professionals. Schulz (2001) considers that the quality of journalism mainly depends on three conditions: the availability of adequate resources to carry out the journalistic labor, a legal and political order that protects and guarantees the freedom of the press and media and journalists' adherence to a series of professional standards they should abide by.

5. From Privacy to Personal Data Protection to the Right to be Forgotten in the Law

"The Right to Privacy", the famous article by Samuel Warren and Louis Brandeis published in 1890 in the Harvard Law Review is considered the work that spawned the modern legal understanding of privacy. This work has inspired legislation and jurisprudence all around the world and in the United States, has meant a reinterpretation of constitutional law, recognizing, and protecting the private sphere of individuals (Czubik, 2016) even if this is a right that is not explicitly mentioned in the Constitution of the United States.

From the moment the right to privacy appeared in modern society it has been tied to technology and to the media (Igo, 2018). The *right to be left alone* as proposed by Warren and Brandeis promotes the idea that everyone should have a space of intimacy that is completely inaccessible to others, including the media, unless an individual consents to grant access (Moreno, 2017).

This means that from the start, privacy -a right that is as precious as it is precarious (Igo, 2018) has been directly concerned with the public image of individuals and the events of their daily lives, and particularly with those individuals that have gained public notoriety. We are talking about a right that allows individuals to resist pressures from mass media that, at the end of the 19th century, had begun to transform the relationships between private citizens and the public society they were part of (Igo, 2018). Thus, privacy arose as a right to defend against unwanted publicity fueled by technology (photography being an example) and that signaled a cultural shift in which commercial interests of (media) companies started interfering with the rights of citizens (Igo, 2018).

The United States first developed the right to privacy through jurisprudence, with the Supreme Court recognizing it as a right that is implicit in the US Constitution (Samuelson, 1999; Strauss & Rogerson, 2002) and reflects both a desire to be free from invasions of privacy from the State (Schwartz & Reidenberg, 1996; Gelman, 1997) and a desire to preserve privacy from intrusions by the free press. In Cox Broadcasting Corp. v. Cohn, 420 U.S. 469 (1975) and Florida Star v. B.J.F., 491 U.S. 524 (1989) the US Supreme Court established that the First Amendment of the Constitution protects the right of the press to publish private information but only if the government has made it public, for example, through court records.

And while the United States has several federal privacy laws, such as the Privacy Act of 1974, the Family and Education Rights and Privacy Act, the Fair Credit Reporting Act or the Health Insurance Portability and Accountability Act and a constellation of local-level laws that protect online privacy (National Conference of State Legislatures 2020) it is within Europe where this right has been more strongly developed during the latter part of the 20th and the beginning of the 21st centuries (Cotino, 2015; Serrano, 2015; Moreno, 2017). The European approach has reformulated the conception of the right to privacy (Moore et al., 2018) and led to the emergence to other fundamental rights, such as the right to personal data protection, and eventually, to other associated rights in secondary law, including a right to be forgotten.

Articles 7 and 8 of the Charter of Fundamental Rights of the European Union (CFREU) recognize both a right to privacy and a right to personal data protection as fundamental rights protected inside the EU. Article 16 of the Treaty for the Functioning of the European Union (TFEU), along with the Charter, give the EU powers to regulate to protect both of those rights. Following European tradition, the State plays an active role in protecting citizens' fundamental rights (Strauss & Rogerson, 2002), including their rights to human dignity, honor, privacy, or personal data, which may serve as limits to another fundamental right recognized in the Union: freedom of expression and of the press. In Van Hannover v. Germany (2004), the European Court of Human Rights (ECtHR) established that the press does not have the right to publish images of public officials without their consent when they are not acting in their official capacity. The Court clearly established that privacy must be given preference over the right and the duty of the press to report on something, particularly if what is being reported does not contribute to democratic debate or otherwise does not involve public officials.

Europe has had data protection laws since at least the 1970s (in Germany, Sweden, or the United Kingdom) and has EU-wide data protection secondary law since 1996. The right to personal data protection is mostly understood as a right connected to privacy but it has also been treated as a separate right in jurisprudence, even before it was expressly established as such in the CFREU. In

Friedl v. Austria (1994), Leander v. Sweden (1987) and Amman v. Switzerland (2000) the ECtHR established that breaches to the right of personal data protection can constitute breaches to the right to privacy when information about a person that was not previously available to the public is disclosed. The Court has also made clear that any personal data processing must be respectful of privacy and fundamental rights in general. Similarly, the Court of Justice of the European Union (CJEU) (see Rechnungshof v. Osterreichischer Rundfunk 2003) has established that EU law must protect citizens from breaches of privacy that may result from personal data processing. In sum, within the EU, personal data processing cannot be considered legal if it breaches privacy or any other fundamental right (Groussot, 2008).

The CJEU unequivocally considered that the right to personal data protection as a standalone right, in accordance with the CFREU in Promusicae v. Telefónica de España SAU (2008) and Scarlet Extended SA v. Societe Belge des Auteurs, Compositeurs et Editeurs SCRL (2011). Europe's influence in modern conceptions of privacy and related legislation around the world, that also recognize a separate right to personal data protection have come to a head with the appearance of the General Data Protection Regulation of 2018 (GDPR) (Kiesow Cortez, 2021; Vanberg, 2021) which includes a "right to erasure" that represents the first instance of codification of a right to be forgotten. Understood as an associated right to the fundamental right to general data protection and included in article 17 GDPR as a right of data subjects, the right to erasure gives individuals the right to request that their personally identifiable information be deleted or removed "without undue delay" (Robles 2018, p. 12).

Before that, the right to be forgotten began emerging in the national courts of various EU member states (Gonzalez, 2014; Jones, 2016). For example, in Germany, the Federal Constitutional Court prevented the broadcasting of a documentary about the life of a former criminal, reasoning that remembering the crime might interfere with the social reinsertion of somebody who had already been tried and sentenced (Casares, 2020). However, the right to be forgotten as we know it today appeared as a result of Google Spain SL v. AEPD & Mario Costeja Gonzalez (2014) in which the CJEU interpreted that such a right existed as part of the right to personal data protection as protected in the 1996 Data Protection Directive.

The Costeja cases established the need that both the rights to privacy and personal data protection -the basis of the right to be forgotten (Leturia, 2016)- are confronted with the right of the public to seek, impart, and receive information, particularly when it must be decided if access to personal information related to an individual should be disabled or if such information should be completely eliminated from a search engine. In the case, the Court decided that privacy and personal data protection must prevail save some exceptions, for example involving information about public figures. The case recognizes the potential harms to the privacy and personal data protection of an individual that archival information about them can cause if it is made available to the public for an unforeseeable period in the future, over and over again. The right to be forgotten essentially allows a person to have the opportunity to erase past information that may paint them in an unfavorable light and that may have negative consequences on their present life (Anguita, 2016), thus, the right to be forgotten also implies the preservation of the right to personal honor.

The fact that the right to be forgotten presents clear challenges for freedom of expression around the world has not deterred other countries from adopting it (Youm & Park, 2016). For example, within the EU, the right has been recognized by the courts of the Netherlands, offering a more nuanced definition than Costeja, characterizing it not only as a right to protect individuals against unfavorable information from the past, but as a right to avoid that any information that may, in the present, be considered excessive, irrelevant, or unnecessarily defamatory haunts a person for the rest of their lives (Kulk & Borgesius, 2014; Kulk & Borgesius, 2015). In Google v. CNIL (2019), the CJEU has also determined that while EU law does not compel a search engine like Google to disable access

to search results about a person worldwide, there is also nothing in EU law that would prohibit the courts of any of its individual Member states to issue an order that requires information to be disabled or removed globally (See Gstrein, 2020; Zalnieriute, 2020).

Outside of the EU, India and South Korea recognize a right to be forgotten (Youm & Park, 2016; Yulchon, 2017). In the Americas, Argentinian courts have been pioneers in recognizing the right to be forgotten (Carter, 2017). In the Natalia Denegri v. Google case of 2020, related to the use of images or video recorded over twenty years ago, the Argentinian court pointed out that the right to be forgotten can be an effective tool to conciliate freedom of expression with protecting privacy in relation to information that has lost its relevance or does not otherwise have any newsworthiness, or scientific, historical, or public interest (Ministerio de Justicia y Derechos Humanos de Argentina 2021). Argentinian jurisprudence has also established that the right to be forgotten should limit the circulation of information but not its suppression, restricting or making it difficult for the media to find information, particularly when using the internet for that purpose (Ministerio de Justicia y Derechos Humanos de Argentina 2021).

Other countries, such as Costa Rica, included a right to be forgotten in its personal data regulation of 2016 (Vargas Acosta, 2020), while in Brazil, courts have recognized a limited right to be forgotten (Globo Comunicações e Participações S.A. v. Jurandir Gomes de França 2013; Nelson Curí and others vs. Globo Comunicações e Participações S.A 2013) in cases of served sentences, acquittals or victims as long no public interest information is involved (Vargas Acosta, 2020). But Brazilian courts recognized that there may be a right to request links be taken down from search engines as long as the content still remains available elsewhere (Yahoo! Do Brasil and Google Brasil vs. DPN 2018) (Vargas Acosta, 2020), thus, establishing a right to de-indexation, rather than a right to erasure; and at the same time, also denied that there is a right to be forgotten recognized in the law (Google Brazil vs. SMS 2016).

Moving on to North America, Mexico has no law regulating a right to be forgotten and national courts have not analyzed the compatibility of the right with the Mexican Constitution or if it may exist elsewhere in national legislation (Vargas Acosta, 2020). In the United States, while the Supreme Court has never directly addressed the compatibility of the right to be forgotten with the First Amendment of the US Constitution, scholars argue that such compatibility would be difficult. McNealy (2012) argues that for US law, public interest in information does not decrease due to the mere passing of time.

Others like Werro (2019) argue that settled Supreme Court case law (in cases like Cox Broadcasting Co. v. Cohn 1975 or Florida Star v. J.B.F 1989) eliminate any possibility of recognizing a right to be forgotten within the context of American constitutional law. Goldman (2015) argues that Martin v. Hearst Corporation (2015) eliminates the possibility of recognizing a right to be forgotten that can be invoked in defamation cases because true events, even if they happened in the past, remain true and cannot then constitute defamation. Moreover, within the context of American constitutional law, a right to be forgotten would result in increased liability for online platforms, which could be considered detrimental for free expression (Martin, 2016) and would, in turn, be considered too heavy a burden for the freedoms protected under the First Amendment of the US Constitution (Bennet 2012).

Back in South America, in Chile, courts seemed, at first, ready to embrace a right to be forgotten but they have since changed their criteria. At first, it seemed that the Chilean Supreme Court was willing to give a right to be forgotten -linking it to a right to honor- preeminence over the right to information and thus implicitly recognizing its existence (Jorge Abbot v. Google 2015). However, the Chilean Court seems to have shifted its views two years later and rejected to recognize that a right to be forgotten of a claimant would have preeminence over a right of a news outlet to report on an individual (Valverde v. CIPER 2017). Then in Castillo v. Google Inc. (2019), the Chilean Supreme Court confirmed

an appellate court decision establishing that the right to be forgotten is not recognized in Chilean law and that search engines are not responsible for the data created by users, even if it includes personal information on an individual. Finally, confirming the trend, in Olmedo v. Google Chile Inc. (2020), the Supreme Court reiterated that the right to be forgotten is not part of Chilean law and that such a right -referring to the Costeja case- only protects citizens of the European Union.

In the case, Olmedo invoked a right to be forgotten and argued that information related to a crime he committed over thirteen years ago was still available online and this affected, among others, his rights to the respect and protection of his honor and private life and thus the information should be removed from the Google Search Engine. The Court reiterated that search engines are not responsible for information created or published by users and that these are protected by the freedom of expression as established in article 19 of the Chilean Constitution. This is notable as it signals not only that the right is not recognized in the country, but also that some courts do not consider the passage of time as a relevant element when considering if privacy or honor can be harmed by information available online.

But there is one Chilean case that never made it to the Supreme Court (Silva v. Google Inc. 2016) in which a mother sought to eliminate gruesome images about the death of his son from the search engine and from two digital news outlets: *Diario Noticias* and *Red Digital*. Upon learning about the request of injunction to a Santiago Appellate Court both *Diario Noticias* and *Red Digital* took down any articles referring to the victim and the associated images. But, even if Google took no action, the lower court rejected the request of an injunction arguing, consistently with Supreme Court jurisprudence, that search engines merely index public information that exists online and has been uploaded by others, and those are not responsible for it. Furthermore, the Court said that Google should not act as a censor of the information that other actors publish online as they could severely interfere with fundamental rights, including freedom of expression.

Relevant to our analysis, despite the case's outcome, we should draw our focus back to the actions of the digital media outlets that decided to voluntarily take down the news articles. The publishers of those outlets, in their decision, considered the damage that the continued availability of cruel audiovisual material about the death of a relative and the constant reiteration of such a memory may have on the affected party. While not part of the legal argument, here we see the potential suffering caused by images as an element when deciding between archival memory and a right to forget. We see evidence that the media outlets had been following the legal debates related to the right to be forgotten, and despite any legal requirements or considerations, decided to go further in protecting the rights of members of the public.

This serves us to argue that, regardless of the legal development of the right to be forgotten and beyond its constitutional reception by different courts in different countries, the fact is that the legal debates around a seemingly emerging right to be forgotten related to honor, privacy and data protection -particularly within the context of internet search engines and the relative ease of accessing past information about individuals online- can help move journalists to reflect on the performance of their right and duty to keep the public informed and how they should treat such situations during the exercise of their profession.

From the legal development of the right to be forgotten across different jurisdictions, we can isolate a number of elements that should be taken into account as part of ethical considerations around the evaluation of unpublishing requests such as the one that is at the center of Silva vs. Google, _Inc. First, it seems that journalists fully understand that there are instances in which honor, privacy and personal data protection should take precedence over the rights to seek, impart and receive information and may lead journalists to override their duty to publish the news. For this, relevance, newsworthiness, and the passage of time seem to be key factors to consider, even if as we have seen, at least in the United

States, at least legally, public interest in information does not decrease due to the mere passing of time. How the recurrence of archival information can affect individuals is also something to be considered. The type of information that has been published is also a relevant factor as sensitive and personally identifiable information may be specifically protected by the law but beyond legal requirements, there may be other types of information that also merit more careful treatment.

A right to be forgotten can limit the circulation of archival information, but it does not have to mean that all information should be completely purged from collective memory. Disabling access to information, or to very targeted pieces of that information (such as personally identifiable information) can be enough to protect the rights of others and archival information can always be used if steps are taken to minimize its negative impacts.

All of these considerations can help preserve a balance that, while imposing some limits on freedom of expression, will not lead to unwarranted obstructions to the rights to seek, impart and receive information and can overall, help journalists make better decisions in a way that allows them to fulfill the traditional duties associated to journalistic practice, while at the same time may help them respond to concerns from the public that better respond to current technological realities.

6. Archival Journalism and its Limits: The Ethical Duties of Journalists in the face of a Right to be Forgotten.

From a legal perspective, a right to be forgotten is a right that allows an individual to request the suppression or elimination of archival information about themselves -generally available in accessible databases such as a search engine- and that may harm their reputation in the present, if there is a legitimate reason to request such suppression or elimination (Anguita 2016). This implies that there is a right to seek, impart and receive information available online that meets an exception in an individual right to be forgotten that can be used to impede that certain archival information related to an individual can be freely communicated (Vivanco 2016).

Academic literature touches upon limits to freedom of expression and of the press, about the legal protections of privacy and personal data and the associated legal obligations for journalists, including specific works that explore the right to be forgotten and its legal implications (See Mieres Mieres 2014; Lewis & James 2014; Azurmendi 2015; Azurmendi 2021; Martínez Otero, 2015; Boix 2015; Youm & Park, 2016; Brock 2016; Anguita 2016; Shapiro & Rogers 2017,; Selizer, 2017; Moreno & Gutiérrez, 2018; Anguita, 2018; Anguita, 2018a; Moreno, 2019).

Authors like Erdos (2009) highlight tensions between journalistic work and the European fundamental right to personal data protection and others wonder if recent legal developments do not subordinate journalism to human dignity, and therefore to privacy, making the practice of reporting the news more difficult (Zirugo, 2021). Similar work has been done in regard to the use of personal data by the press in the Americas (Toscano, 2017). For LaMay (2003) privacy issues represent a gap between what journalism ethics says professionals should do and what the law mandates. Everything from watchdog journalism and privacy (Darko, 2020); the relationship between press freedom, libel laws and reputational privacy (Smith, 2011); press freedom, hacking and privacy (Dawes 2014) to how privacy and freedom of expression need not come at the expense of each other as far as journalistic practice is concerned (Lever, 2015); to the implications for privacy of using social media as a source (Gross, 2017) have been covered. These are of course, but a few examples.

There are works that explore the ethical implications of the right to be forgotten for media enterprises (Santin, 2017), about how journalists should act in relation to the motivations, functions and possibilities to apply a right to be forgotten (Jaramillo & Castellón, 2017), how the requests to erase

information from the record should be treated (Watson, 2012; Lafuente, 2015), and, more in general, identifying the ethical challenges related to a right to be forgotten from various perspectives (Labrador & Carter, 2017).

Brock (2016) wonders if the collision of rights leads to the establishment of new rights on the digital era or if the right to be forgotten represents a threat to freedom of information and the accuracy of the historical record. Others like Tirosh criticize the right's focus on deletion and its focus on individuals (Tirosh 2017). Faisal (2021) ponders how a right to be forgotten may affect the reporting of criminal convictions. McStay (2017) wonders if such a right makes online media ahistorical. Brock (2016) places the debate squarely at the center of the struggle between free expression and privacy when he wonders if "the question of whether the law should require personal information to be delisted by search engines (or deleted altogether) sits at the new, shifting, and disputed border between free speech and privacy in the online world" (p. 2). Youm & Park (2016) see an opportunity when they affirm that "the RTBF as a matter of informational privacy can enrich, not undermine, the values of free speech—autonomy, truth-seeking, or facilitation of democracy—in one way or the other" (p. 289) although they think that the Court of Justice of the European Union and European regulation on the matter leave much to be desired.

However, we think it is particularly interesting to explore the ethical duties in relation to journalists as individuals, as professionals that must be able to exercise their communication rights with freedom but that also bear upon their shoulders the duty and responsibility to keep their audiences informed while at the same time, striving to protect the rights of others.

In this section, after delving into the legal obligations derived from the right to be forgotten and the rights that underpin it in primary law, we center on exploring the ethical obligations for journalists derived from the existence of these rights. This means that we should ponder what are the obligations for journalists that go beyond the letter of the law, even in jurisdictions where a right to be forgotten is yet to be recognized.

The importance of analyzing the dilemmas related to these rights is clear as one of the main ethical duties of a journalist is not to show indifference towards the privacy of others (Moore et al. 2018), and of course, not to show indifference towards fundamental human rights in general.

Privacy protects values such as "physical security, autonomy, intimacy, dignity, identity and equality" (Francis & Francis 2014, p. 409). The rights to honor, personal data protection and the right to be forgotten are related to privacy and seek to protect the same values, although in different iterations and have a specific configuration in their legal dimension that also requires a specific analysis of their ethical implications. Concretely, from the point of view of the ethical duties of the journalists and specifically, from the point of view of the limits of archival memory and the implications this has for journalistic work.

While not all problems with the media and journalism should be reduced to the effects the internet has on them, it is true that the internet does pose new ethical dilemmas for journalists that are directly related to immediacy and the speed in which information can be disseminated online. Privacy can be breached due to the fact that social media can enable live transmission of almost any event through video, audio or even *tweets* (Moore et al., 2018). Journalists can use any social network in ways that can be invasive to the privacy and intimacy of others. Thus, they should thread lightly when using these technologies even if using platforms such as Twitter and others may help boost their professional profiles or lead to reach for the news they produce, or the news media companies they work for.

Ethical dilemmas related to personal data protection include those related to the information that journalists may find online. Even if an individual user is the one that disclosed their personal

information, the journalist must still decide if publishing such information as part of the news is the right thing to do (Moore et al., 2018). Internet provides journalists with unprecedented access to information and "the easy access to online information, however, can make some information items "more public than they ought to be" (Nissenbaum, 2010, p. 56), an "ought" claim that moves us into the realm of ethics" (Roberts, 2019, p. 207). In other words, the journalist must ponder if the information published on a personal profile can be treated as information that is no longer private and thus reported as part of the news.

Regarding personal data protection, journalists also have the duty to make sure that the information related to an individual they extract from an archive, or a database (digital or analog) is correct and up to date. They also have the responsibility to ensure that in reporting such information the mistakes or inaccuracies it may contain are not repeated and perpetuated. When necessary, journalists should be prepared to set the record straight. We should not forget that journalists must guarantee the rigorous and professional reporting of happenings in ways that serve the right of citizens to be informed, as the values of journalism demand that the information that is reported is reliable, independent and serves the public interest (Cruz Álvarez & Suárez Villegas, 2017).

When using information found through an internet search engine, a social network or other online databases, journalists may face dilemmas that are similar or analog to the legal debates around the right to be forgotten. This is because in journalism, the use of archival material to contextualize current events is standard practice combined with the fact that "long-tail damage to reputations has greatly expanded in the digital era where a simple Google search turns up information that once might have required courthouse digging" (Edmonds, 2016). Ease of access to past information gives rise to the need to exercise a right to be forgotten when a fact from the past is referred to, such as an accident or a crime, and each time a similar case is reported in the news (Jaramillo & Castellón, 2014).

Thus, the right to be forgotten has an unquestionable ethical dimension since, beyond the veracity or public interest expected of the news, and beyond the legal obligations of news companies, on digital media, it is especially relevant to evaluate how the passage of time can make it necessary to exercise forbearance to properly consider the rights at stake (Santin, 2017). Journalists should "consider the long-term implications of the extended reach and permanence of publication" and "provide updated and more complete information as appropriate" (Edmonds, 2016).

The links between memory in the news and ethics adds another factor to journalistic practice. The last few decades have been characterized by a critical vision that has shed light on the dysfunctions in news coverage of relevant events. This is one of the determinants that have led to a progressive displacement of traditional media by digital news outlets, social media and in general, the democratization of communication technologies as a source for the news (Chadwick, 2013), which has led to a blurring of the role of media because journalists have not been able to take ownership of those new spaces in which they can provide added value.

Internet can be understood as a sort of freely accessible digital newspaper archive. Digital technologies enable almost instantaneous access to virtually any story, no matter how insignificant or how ancient, even if it did not happen exactly as it was told in the past, if it contained falsehoods or inaccuracies, or if it had a much different outcome than the one outlined in the first version of the published story (Lafuente, 2014).

For those seeking to exercise their right to be forgotten, particularly those that may abuse that right, if we do not wish to see others disrupt history by "filling it with silences that render it incomprehensible" (Lafuente, 2015, p. 95) the media and journalists must be capable to carry out the tasks of updating, correcting, or completing those stories that need it particularly when incorrect news seriously affect the lives of anonymous citizens (Lafuente, 2015). Abdicating such a duty, the author

continues, is not the best formula for cultivating the much-needed credibility that the practice of journalism requires (Lafuente, 2015).

However, it is also necessary that journalists "remain in control of the information they publish" (Seaman, 2015) and while they should take requests to unpublish or correct information from the public seriously, showing "compassion for those who may be affected adversely by news coverage" (The Society of Professional Journalists' (1996) Code of Ethics, as cited by McNealy & Alexander, 2017, p. 390) and treating "all subjects of news coverage with respect and dignity" (The Radio Television Digital News Association (2015) as cited by McNealy & Alexander, 2017, p. 390), they should also be careful not to go against traditional ethical news values by "deleting truthful, previously published information" (McNealy & Alexander, 2017, p. 390). Unpublish, however, is an area of ethical decision making that "remains especially murky in both principle and practice. But growing awareness of the so-called longtail of news seems likely to influence more than just the adjudication of unpublishing requests" (Shapiro & Rogers, 2017, p. 1109).

Finally, however, our general recommendation cannot be other than reinforcing the social role of journalism as long as journalism is based around the pursuit of best practices that emphasize duty -i.e., defining principles or standards of conduct, articulating ethical responsibilities that "set a bar for conduct that points the way to the best"- (Craig, 2015, p. 17); virtue -i.e., the "personal qualities or virtues" that drive the conduct of those journalists that seek to do work that "models excellence by pursuing best practices" (Craig 2015, p. 20); and care for others -i.e., adopting best practices that "involve a true and lasting commitment to engagement with others" (Craig 2015, p. 25).

For this, it is necessary to recognize that news media professionals must be more skillful in their exercise of their communication rights, taking on more responsibility with regard to the act of reporting the news. What does *more skillful* mean? That the abilities and best practices of the profession must be embraced, yes, but mainly that those competences related to properly exercising good judgement that can lead journalists to adequately evaluate the data or information they gain access to, and that will open the door for them to make a balanced judgement that can lead them to achieve the criteriological truth we have mentioned before.

As Derieux (1983) already asked masterfully, who can ignore that the quality of the news that are distributed, of the explanations and comments that accompany them, of all publications considered together, depends greatly on the level of education of the journalists themselves? Without ethics, journalism is simply bad journalism (Rodrigo-Alsina & Cerqueira, 2019) and can lead to stories that threaten the basic rights of citizens, including the right to privacy or to honor. As recent experiences with disinformation and misinformation can show us, journalism devoid of solid skills and lacking in ethics is an irresponsible activity that abandons its social function and is detrimental, even destructive, to society. Benton (2021) asks journalists to acknowledge that they play a role in preventing those that want to move on from their mistakes.

Around the world, journalistic codes of conduct establish different parameters related to how to treat request to unpublish information. In Korea for example, national codes of ethics emphasize the need to "refrain from damaging an individual's reputation" and to "consider the long-term implications of the extended reach and permanence of publication," encouraging journalists to "provided updated and more complete information as appropriate" (Nah & Craft, 2019, p. 2578). In contrast, in the United States, unpublishing is seen as a last resort that should be taken only reluctantly (McBride 2014) in extreme cases and rare circumstances (Nah & Craft 2019 citing Tenore, 2010; Myers 2010; Silverman, 2013). In the United States, newspapers prefer to remove published stories only under extraordinary circumstances, preferring to keep the bar high when considering the removal of content published online analyzing situations on a case-by-case basis (Edmonds, 2016). However,

although "80 percent of news outlets… had established unpublishing policies" almost half did not adopt written guidelines and almost none shared it with the public (Schmidth, 2019).

Others argue in favor of looking at context, as the ease of finding online information can make information more public than it should be Nissenbaum (2010) and because it may be ethically justifiable to publish certain information for one community, but not for another (Roberts. 2019) as "the publication of some information (could be) appropriate for a local audience (but) may bring ethical peril when provided beyond that community" (p. 209).

McNealy & Alexander (2017, p. 401) suggest that news organizations should "(1) make the unpublishing policy available to readers in an attempt to lessen requests; (2) remain cognizant of the duty of the press to report the truth, which may not always paint the news subject in a favorable light; and (3) create a policy against unpublication with exceptions for instances in which the individual making the request is at risk of possible harm."

We wholeheartedly agree with these authors, particularly on the need of not losing sight of the duty or reporting the truth, even if this may not always be favorable to the news subject. We also agree that robust, clear and transparent policies regarding unpublication can both help journalists within organizations follow guidelines that can make them do their job better with that sense of duty, virtue and care for others that we have referenced before while at the same time, can help them earn the trust of the public which may be more willing to accept decisions related to publishing or unpublishing content.

And while we think that those policies can treat granting requests to unpublish -or alter- already published news as exceptions in order to protect duties of the press related to reporting the news and letting the public know about truthful facts, we also think that a social reality that recognizes a right to be forgotten to individuals, or at least a new social norm that contemplates a heightened claim by private citizens to be protected against the harms of contemporary technologies ought to lead to a reassessment about what to do in these cases.

Santin (2017) invites journalists to go beyond the legal protections that the right to be forgotten gives citizens wherever it is recognized, particularly beyond the European definition of the right and consider, from a deontological perspective, how unpublishing requests should be handled. As Lafuente (2014) says, provocatively, it may be time to stop considering archives as sacred and consider that there may be instances in which history may need to be erased or rewritten, particularly when journalists deal with erroneous or incomplete information, that, due to carelessness or bad practices, ends up causing everlasting harm. After all, he says, journalistic rigor does not expire.

There are instances in which, honor privacy and personal data protection can have preeminence over the rights to seek, impart and receive information and even freedom of expression. Santin (2017) points out that media that have opted to self-regulate in these matters "do not contemplate citizens re-writing the story however they like, but, instead, to make it easier for any who are not in the public eye to exercise their right to be forgotten, thus preventing the journalistic activity from becoming an even greater punishment than a possible judicial sentence" (p. 308).

To repair the damage which any information may cause to the rights of the people involved, analyzing unpublishing requests from the point of view of either a legally recognized right to be forgotten, or at least from the point of view of a social norm that expects that individuals will be able to seek redress for archival information about their past that affects their rights in the present may be necessary. Based on the review of the legal development of the right to be forgotten across different jurisdictions we have performed in the previous section; we have identified certain elements that can inform ethical debates around unpublishing content:

- Relevance and newsworthiness are key. What was relevant and newsworthy in the past, may not be so in the present and the public interest in reiterating past information should be as clear as possible.
- Tied to relevance, the passage of time seems to be a key element as well. Information that was considered relevant and necessary in the past, may be considered excessive, irrelevant, or even defamatory in the present.
- Another key element is recurrence. The fact that archival information is recorded and exists may not be the problem in and on itself, but its continued availability and reiterated publication may lead to affectations of the rights of an individual.
- The type of information matters. Personally identifiable information may receive specific protection in the law (through data protection laws) but depending on the factors of time passage and recurrence journalists may also consider how other information that is not legally considered sensitive, may harm the subjects of reporting in the present.
- A right to be forgotten can limit the circulation of archival information, but it does not have to mean that all information should be purged from collective memory. Disabling access to information can be enough to protect the rights of others and archival information can always be used provided steps are taken to minimize its negative impacts.
- Journalists should strive to strike a balance that while imposing some limits on freedom of expression, will not lead to unwarranted obstructions to the rights to seek, impart and receive information.

7. Conclusions

This work has sought to use legal debates around the right to be forgotten to illuminate journalism ethics around the uses of archival information related to individuals. However, we have not sought to translate the law into ethical prescriptions. Rather, we sought to identify certain elements of the legal debate, that should be taken into account in ethical considerations, elements that may aid in making decisions. In its different sections, we have explored the interactions between archives, memory and journalistic practice and what limits archival journalism should be subject to, particularly in relation to the ethical duties journalists face relative to a right to remember or a right to forget and the evident tensions and debates this generates, particularly when we introduce the variables related to the protection of the rights to privacy and personal data protection, and particularly the right to be forgotten, particularly when they are confronted to the right to freedom of expression and the rights to seek, impart and receive information.

A right to be forgotten need not always entail the complete elimination of information and sometimes disabling access to information can be enough to protect the rights of others. Unpublishing demands can be met with forbearance. In that sense, there may be instances where journalists, or media companies that decide that eliminating old news articles may be the right course of action but only in the most extreme of cases. In any case, when it is necessary to refer to archival news or to past information about individuals to contextualize present news, journalists must work hard to justify why the use of past information is absolutely necessary and avoid using it when it is not. A right to be forgotten can limit the circulation of archival information, but it does not have to mean that all information should be purged from collective memory. There needs to be a delicate balance if we also want to preserve the rights to seek, impart and receive information, fundamental rights that are essential for a democracy and pillars of a free press.

Our study of legislation and judicial decisions related to the right to be forgotten, has pointed us towards several concerns directly related to ethics and the practice of journalism that circle around the elements of relevance, the passage of time and the recurrence of information. In terms of its relevance, journalists should determine if what was newsworthy and important for the public in the past continues to be important and newsworthy in the present. To decide on this relevance, or when deciding if archival personal data should be used in present-day news, journalists should ponder how the passage of time factors in as information that was considered relevant in the past, may be considered excessive, irrelevant or even harmful for the lives of an individual in the present. Journalists should also consider how the continued availability and recurrent or reiterated publication of archival information may lead to affectations of the rights of individuals. Considering these factors and deciding what is the right thing to do by taking them into account may allow journalists to determine the most responsible ways of using archival information about individuals.

Past data about individuals may be used in current news, but journalists ought to exercise great care and respect for those individuals and their rights. They should be particularly conscious of any potential negative affectations on the fundamental rights to individuals, particularly their privacy, personal data protection and honor, particularly when that information no longer has public interest, or we are not talking about individuals that would be the focus of the public interest where it not for that information that was once relevant.

In any case, journalists should understand that sometimes, individuals may have good reasons to seek control over their archival personal data, and requests to suppress or limit access to such information should be taken seriously by journalists. Since we are talking about ethical duties and professional values -the right to be forgotten does not exist as a legally enforceable right in every jurisdiction- taking requests seriously implies that journalists have a moral duty to aid in the protection of the fundamental rights of the individuals they report on.

By closely following the legal debates around the right to be forgotten, journalists can identify elements that can serve to update the ethical duties they must honor when practicing responsible journalism for the greater good in a way that can respond to current societal demands. This can help them navigate the tensions they will encounter when using archival information for reporting the news of the present. Journalists should strive to appropriately balance their rights to seek, receive and impart information with the right of individuals to forget their past and move on, and to be preserved from recurrent reminders of their past actions in ways that may negatively impact their present lives and their fundamental rights in the present and in the future.

References

Almirón, N. & Jarque, J. (2008). *El mito digital. Discursos hegemónicos sobre Internet y periodismo*. Anthropos.

Anguita, P. (2016). *Acciones de Protección contra Google*. Librotecnia.

Anguita, P. (2018). Medios de Comunicación y el Derecho al Olvido en Chile. In Labrador, M. J. & Carter, E. (Eds.), *Google: El Derecho al Olvido y Desafíos Éticos en el escenario mediático digital,* Ril.

Anguita, P. (2018). The Right to be Forgotten in Chile. Doctrine and Jurisprudence, in Tambou, O. & Bourton, S. (Eds.), *The Right to be Forgotten in Europe and Beyond*, Series Open Access Book, Blog droit Européen.

Azurmendi A. (2015). Por un derecho al olvido para los europeos: aportaciones jurisprudenciales de la Sentencia del Tribunal de Justicia Europeo del caso Google Spain y su recepción por la Sentencia de la Audiencia Nacional española de 29 de diciembre de 2014- *Revista de Derecho Político,* (92), 273-310.

Azurmendi, A. (2021). Ethical implications of the right to be forgotten. In Price, L.T, Sanders, K & Wyatt, W. (Eds). *The Routledge Companion to Journalism Ethics*, 371-379, Routledge.

Beam, R., Brownlee, B., Weaver, D. & Di Cicco, D. (2009). Journalism and Public Service in Troubled Times. *Journalism Studies,* 10(6), 734-753.

Bebawi, S. & Bossio, D. (2016). Mapping the emergence of social media in everyday journalistic practices. *Culture and Policy,* 16(1), 147-158.

Benkler, Y., Faris, R. & Roberts H. (2018). *Network Propaganda. Manipulation, Disinformation, and Radicalization in American Politics.* Oxford University Press.

Bennett, W. L., & Livingston, S. (2018). The disinformation order: Disruptive communication and the decline of democratic institutions. *European Journal of Communication* (33), 122–139. https://doi.org/10.1177/0267323118760317

Benton, J. (2021). Is unpublishing old crime stories Orwellian or empathetic? The Boston Globe is offering past story subjects a "fresh start." *Nieman Lab.*

Boix, Andrés (2015). El equilibrio entre los derechos del artículo 18 de la Constitución, el derecho al olvido y las libertades informativas tras la Sentencia Google. *Revista General de Derecho Administrativo,* (38), 1-40.

Boczkowski, P.J. (2009). Technology, Monitoring, and Imitation in Contemporary News Work. *Communication, Culture and Critique,* 2(1), 39-59.

Braun J. & Eklund J. (2019). Fake News, Real Money: Ad Tech Platforms, Profit-Dirven Hoaxes and the Business of Journalism. *Digital Journalism, (*7), 1-21.

Brock, G. (2016). *The Right to Be Forgotten: Privacy and the Media in the Digital Age.* I.B.Tauris.

Calabrese, L. (2009) La vida cotidiana del acontecimiento: denominación y memoria en la prensa escrita. *Revista Figuraciones*, (6).

Castellano, P. (2013). El carácter relativo del derecho al olvido en la red y su relación con otros derechos, garantías e intereses legítimo. In Corredoira, L. & Cotino L. (Eds.), *Libertad de expresión e información en Internet: Amenazas y protección de los derechos personales,* 451-474, Centro de Estudios Políticos y Constitucionales.

Carter, E. (2013). Argentina´s Right to Be Forgotten. *Emory International Law Review, 1 (*27), 23-39.

Castells, M. (2012) *Networks of outrage and hope: Social movements in the Internet age.* Polity Press.

Cetina Presuel, R. (2019). Algorithms and the News: Social Media Platforms as News Publishers and Distributors, *Revista De Comunicació*n, 2 (18), 261-285.

Cetina Presuel R. (2021). Universality vs. Standardization: The Privatization of Communication Rights on Social Media", in Corredoira, L., Bel, I. & Cetina Presuel, R. (Eds.), *The Handbook of Communication Rights, Law, and Ethics Seeking Universality, Equality, Freedom and Dignity*, 57-74. Wiley.

Chadwick, A. (2013). *The Hybrid Media System*. Oxford University Press.

Chesney, R., & Citron, D. K. (2019). Deepfakes and the new disinformation war. The coming age of post-truth geopolitics. *Foreign Affairs*. https://fam.ag/3uhmsKN

Cornwell, N. & Stephenson, D. (2004). *Freedom of the Press: Rights and Liberties under the Law.* ABC-CLIO.

Craig, D. (2015). Journalism Ethics and Best Practices, in Zion, L. & Craig, D. (Eds.), *Ethics for Digital Journalists,* 15-31, Routledge.

Creswell, W.J. (2009). *Research Design: qualitative, quantitative, and mixed methods approaches* (3rd ed.). Sage.

Cruz-Álvarez, J. & Suárez Villegas J. C. (2017). Pautas deontológicas para el periodismo digital, *El profesional de la información, 2* (26), 249-254.

Czubik, A. (2016). The Right to Privacy by S. Warren and L. Brandeis – The Story of a Scientific Article in the United States, *Ad Americam*, 17 (17), 211-2019.

Darko, S. (2020). Investigative Journalism in Ghana: Balancing Public Interest and Individual Privacy. *Cogent Social Sciences* 6(1), 177-244. https://doi.org/10.1080/23311886.2020.1772444

Dawes, S. (2014). Press Freedom, Privacy and the Public Sphere. *Journalism Studies,* 15(1), 17-32. https://doi.org/10.1080/1461670X.2013.765637

De Baets, A. (2016). A historian's view on the right to be forgotten. *International Review of Law, Computers & Technology*, 1-2 (30), 57–66. https://doi.org/10.1080/13600869.2015.1125155

De Pablos Coello, J. & Mateos Martin, C. (2004). Estrategias informativas para acceder a un periodismo de calidad, en prensa y TV. Patologías y tabla de «medicación» para recuperar la calidad en la prensa. Ámbitos (12), 341-365.

Derieux, E. (1983). *Cuestiones ético-jurídicas de la información*. EUNSA.

Desantes, J. (1974). *La información como derecho.* Editora Nacional.

Desantes, J. (1992): La documentación, actualidad permanente. *Documentación de las Ciencias de la Información*, 15 (23), 23-34.

Desantes, J. (1994). *El futuro de los profesionales de la información.* Ediciones Universidad Universidad San Sebastián.

Deuze, M. (2005). What is journalism? Professional Identity and ideology of journalists reconsidered. *Journalism Theory, Practice and Criticism*, 6 (4), 442-464.

Dickinson, R., Matthews. J.., & Saltzis, K. (2013). Studying journalists in changing times. *International Communication Gazette*, 75(1), 3–18. https://doi.org/10.1177/1748048512461759

Donovan J. (2020). Deconstructing Disinformation's Threat to Democracy. *The Fletcher Forum of World Affairs,* 1 (44), 153–60.

Eberle, E. J. (2011). The Methodology of Comparative Law. *Roger Williams University Law Review*, 1 (16), 51-72.

Edmonds, R. (2016). Newspapers hit with a wave of requests to take down embarrassing archived stories. Poynter.

English, K. (2009). *The longtail of news: To unpublish or not to unpublish*. The Associated Press Managing Editors Online Journalism Credibility Project.

Erdos, D. (2019). *European Data Protection Regulation, Journalism and Traditional Publishers.* Oxford University Press.

Faisal, K. (2021). Balancing between the Right to Be Forgotten and the Right to Freedom of Expression in Spent Criminal Convictions. *Security and Privacy,* 4(4), 1-14. https://doi.org/10.1002/spy2.157

Francis, J.G. & Francis, L.P. (2014) Privacy, confidentiality, and justice. *Journal of Social Philosophy* 3 (45), 408–431.

Gaida, A. (2008). What if Samuel D. Warren hadn't Married a Senator's Daughter? Uncovering the Press Coverage that led to "The Right to Privacy." *Michigan State Law Review* 2008, 35-60.

Galdó, G. (1993). La documentación periodística y la ruptura de algunas barreras informativas. *Comunicación y sociedad*, 6 (1&2), 121-126.

Gellman, R. (1997). Data Privacy Law: A Study of United States Data Protection. *Government Information Quarterly*, 2 (14) 215-217.

Ghosh, D. (2020). *Terms of Disservice.* Brookings Institution Press.

Gross, B. (2017). Harvesting Social Media for Journalistic Purposes in the UK. In Schünemann, W.J. & Baumann, M. (Eds.), *Privacy, Data Protection and Cybersecurity in Europe,* 31-42, Springer.

Groussot, X. (2008). Music production in Spain (Promusicae) vs. Telefonica de España SAU – Rock the KazaA: another clash of fundamental rights. *Common Market Law Review, (*45), 1748-1766.

Gstrein, O. (2020). Right to be Forgotten: European Data Imperialism, National Privilege or Universal Human Right? *Review of European Administrative Law*, (1), 125-152.

Gutiérrez Atala, F., Odriozola Chéné, J., Ferreira, J., Anaya Ávila, P., & Pajoni, H. (2015). El peso de la presión social y política: estudio de las limitaciones que condicionan el desempeño de los periodistas en cinco países latinoamericanos. *Anuario Electrónico De Estudios En Comunicación Social "Disertaciones"*, 1 (9), 84-102. https://doi.org/10.12804/disertaciones.09.01.2016.05

Guallar, J. (2010, 30 de junio). Los retos de la Larga Cola: cuando las noticias sensibles son eternas [Blog de la Revista BiD, Universidad de Barcelona]. Blok de BiD. http://www.ub.edu/blokdebid/es

Heinrich, A. (2011). *Network Journalism: Journalism Practice in Interactive Spheres.* Routledge.

Igo, S. (2018): *The Known Citizen.* Harvard University Press.

Jaramillo, O. & Castellón, L. (2014). Niños, medios de comunicación y Derecho al Olvido. *Actas del Primer Congreso Latinoamericano de Niñez y Políticas Públicas: balances, desafíos y compromisos para una nueva ciudadanía.* Universidad Mayor.

Jenkins, H. (2006). *Confronting the challenges of Participatory Culture*. MIT Press.

Jones, M.L. (2016). *Ctrl + Z: the Right to Be Forgotten.* New York University Press.

Kamm, F. (2016). *The Trolley Problem Mysteries*. Oxford University Press.

Kaye, J. & Quinn, S. (2010). *Funding Journalism in the Digital Age: Business Models, Strategies, Issues and Trends.* Peter Lang.

Kiezow E. (2021). *Data Protection Around the World: Privacy Laws in Action*. T.M.C. Asser.

Kulk S. & Borgesius, F. (2014). Google Spain v. González: Did the Court Forget about Freedom of Expression? *European Journal of Risk Regulation,* 5 (3), 389-398.

Kulk, S. & Borgesius F. (2015). Freedom of Expression and the Right to be Forgotten cases in the

Netherlands after Google Spain in European Union Law. *European Data Protection Law,* (1), 113-125.

Lafuente, G. (2014, september 25). El derecho al olvido y las obligaciones de los periodistas. *El Diario*, https://bit.ly/3umQdKa

Lafuente, G. (2015) Por qué es importante para los periodistas preocuparse por el derecho al Olvido, *Cuadernos de Periodistas,* (30), 95-103.

LaMay, C. (2003). *Journalism and the Debate over Privacy in Journalism.* Taylor and Francis.

Leturia F. (2016). Fundamentos Jurídicos del Derecho al Olvido: ¿Un nuevo derecho de origen europeo o una respuesta típica ante colisiones entre ciertos fundamentos? *Revista Chilena de Derecho,* 1 (43), 91-113.

Lever, A. (2015). Privacy, Democracy and Freedom of Expression. In Roesller, B. & Mokrosinska, D. (Eds.), *Social Dimensions of Privacy*, 162-180, Cambridge University Press.

López Hernández, A. (2000). La documentación, herramienta básica del periodista y del comunicador. Ámbitos (5), 129-142.

Martín, C. & De Pablos Coello, J. (2004). Estrategias informativas para acceder a un periodismo de calidad en prensa y TV. Ámbitos: Revista internacional de Comunicación, (11-12), 341-365

Martínez Otero, J. (2015). El derecho al olvido en Internet: debates cerrados y cuestiones abiertas tras la STJUE Google vs AEPD y Mario Costeja. *Revista de Derecho Político,* (93), 103-142.

Mattelart, A. (2003). *The Information Society: An Introduction*. Sage.

Mayer-Schönberger, V. (2009). *Delete: The Virtue of forgetting in the digital age.* Princeton University Press.

McChensey, R. (2003). The Problem of Journalism: A Political Economic Contribution to an Explanation of the Crisis of Contemporary US Journalism. *Journalism Studies,* 4(3), 299-329.

McNealy, Jasmine E. & Laurence B. Alexander (2017). A Framework for Unpublishing Decisions. *Digital Journalism* 6(4), 1-17.

McStay, A. (2017). *Privacy and the Media*. Sage.

Mieres-Mieres,, L. (2014). *El derecho al olvido*. Fundación Alternativas.

Mogollón, H. & Gutiérrez, S. (2006). Internet como fuente de información en un contexto de glocalidad y necesidades informativas en Venezuela. *Razón y Palabra, (49).* http://www.razonypalabra.org.mx/anteriores/n49/hazelsiglic.html

Moore, R.L., Murray, M., Farrel, M. & Youm K.H. (2018). *Media Law and Ethics.* Routledge.Moreno Bobadilla, Á. (2017). *Intimidad y Menores.* Centro de Estudios Políticos y Constitucionales.

Moreno Bobadilla, Á. & Gutiérrez Atala, F. (2018). Implementation of the Right to Be Forgotten in Chile: The Right to One's Image as an Essential Part of All People", *Journal of Information Policy* (8) 346-361.

Moreno Bobadilla, Á. (2019). El Derecho al Olvido Digital: Una brecha entre Europa y Estados Unidos. *Revista de Comunicación,* 1 (18), 259-276, doi:10.26441/RC18.1-2019-A13.

Muro, I. (2009) La teoría de la 'larga cola'. Trazabilidad de la información y credibilidad de los medios. *Telos,* (80) 1-4.

Myers, S. (2010, June 9). "All Facebook" blogger explains reporting process, decision to unpublish an erroneous post. Poynter. Retrieved from https://bit.ly/3odPbwo

Nah, H. S. & Craft, S. (2019). Unpublishing the News: An Analysis of U.S. and South Korean Journalists' Discourse About an Emerging Practice. International Journal of Communication, 13(2019), 2575–2595.

National Conference of State Legislatures (2021, July 22). *State Laws Related to Internet Privacy*. https://bit.ly/3oiuA9Z

Nissenbaum, E. (2010). *Privacy in Context. Technology, Policy, and the Integrity of Social Life.* Stanford University Press.

Odriozola-Chené, J. Gutiérrez Atala, F., Domínguez-Panamá, J. & Pérez-Arozamena, R. (2019). Las relaciones de las influencias en los procesos de producción informativa y sus efectos en la calidad periodística. Una visión desde Latinoamérica. *Cuadernos.info,* (44), 119-134

Otzen, H. & Manterola, C. (2013). Porqué investigar y cómo conducir una investigación. *International Journal of Morphology,* 4(31), 1498-1504.

Pasquale, F. (2015). *The Black Box Society.* Cambridge: Harvard University Press.

Richardson, L. (2000). Writing: A method of inquiry. In N. K. Denzin & Y. S. Lincoln (Eds.), *Handbook of qualitative research,* (2), 923-948. Sage.

Roberts, Chris (2009). All News is 'Glocal'? Considerations of Community and Personal Privacy with Global Publication of Local News. *Journal of Media Ethics,* 4(34), 205-214.

Robles, M. (2018). Data Privacy Rights Introduced by GDPR. *Risk Management*, 5 (65), 12-13. https://bit.ly/347wYti

Rodrigo-Alsina, M. & Cerqueira, L. (2019). Periodismo, ética y posverdad. *Cuadernos Info, (*44) 225-239

Saltzis, K. & Dickinson, R. (2008). Inside the Changing Newsroom: Journalists' Responses to Media Coverage. *Aslib Proceedings,* 60(3), 216-228.

Samuelson, P. (1999): Data Privacy Law: A Study of United States Data Protection, *California Law Review,* 3(87), 751-781.

Sánchez Ferriz, R. & Corredoira, L. (2017). La compleja configuración de un derecho-libertad poliédrico, el Derecho a la Información. *Revista de Derecho Político,* (99), 11-48.

Sánchez Sánchez, R. (2012). Nuevas Fuentes de Información y Mala Praxis Periodística. Vivat Academia, 14(117), 1417-1430.

Santin M. (2017). The problem of the right to be forgotten from the perspective of self-regulation in journalism. *El profesional de la información*, 2(26), 303-310.

Schwartz P. & Reidenberg J. (1996). *Data Privacy Law: A Study of United States Data Protection.* Michie.

Schmidt, C. (2019). *Unprepared for Unpublishing? Here's How Some Newsrooms Are Rethinking What Lasts Forever*. Nieman Lab.

Schulz, W. (2001) Preconditions of Journalistic Quality in an Open Society. In Bajomi-Lázár, P. & Hegedűs, I. (Eds.), *Media and Politics*, 47-57. New Mandate Publishing House.

Schulz, W. & Raman, S. (2020). *The Coming Good Society: Why New Realities Demand New Rights*. Harvard University Press.

Seaman, A. (2015, July 20). Learning from Gawker's attempt to erase the past. *Code Words*. Retrieved from http://blogs.spjnetwork.org/ethics/tag/unpublishing/

Shapiro, I. & Mcleod Rogers, B. (2017). How the "Right to be Forgotten" Challenges Journalistic Principles. *Digital Journalism*, 5(9) 1101–1115. https://doi.org/10.1080/21670811.2016.1239545

Silverman, C. (2009). Archival Research. New study finds there's no clear standard for updating or maintaining online news archives. *Columbia Journalism Review*. https://archives.cjr.org/behind_the_news/archival_research.php

Silverman, C. (2013, January 16). Washington Post clarifies practices and standards for corrections. Poynter. Retrieved from http://www.poynter.org/2013/washington-post-clarifies-practices-andstandards-for-corrections/200844/

Singer, J.B. & Ashman, I. (2009). User-generated Content and Journalistic Values. In Allan, S. & Thorsen, E. (Eds.), *Citizen Journalism: Global Perspectives*, 233-242. Peter Lang.

Smith, R. (2011). Freddie Starr ate my Privacy: OK! *Queen Mary Journal of Intellectual Property,* 1(1), 53-72. https://doi.org/10.4337/qmjip.2011.01.03

Strauss, J. & Rogerson, S. (2002). Policies for Online Privacy in the United States and the European Union. *Telematics and Informatics,* 2 (19), 173-192.

Stremlau, N., Gagliardone, I. and Price, M. (2018). *World Trends in Freedom of Expression and Media Development 2018*. Unesco.

Tenore, M. J. (2010, July 19). 5 ways news organizations respond to "unpublishing" requests. Poynter. Retrieved from https://www.poynter.org/reporting-editing/2010/5-ways-news-organizationsrespond-to-unpublishing-requests/

Tirsoh, N. (2017). Reconsidering the 'Right to be Forgotten' – Memory Rights and the Right to Memory in the New Media Era. *Media, Culture and Society,* 39(5), 644-660. https://doi.org/10.1177/0163443716674361

Torres-Martín, J. L., & Castro-Martínez, A. (2021). Prácticas comunicativas periféricas en los medios de comunicación en España. El caso de La Poderío. *Revista de la Asociación Española de Investigación de la Comunicación*, 8(15), 170-198. https://doi.org/10.24137/raeic.8.15.8

Toscano, S. (2017). Freedom of Expression, Right to Information, Personal Data and the Internet in the view of the Inter-American System of Human Rights. *Advances in Distributed Computing and Artificial Intelligence Journal*, 6(1), 21-29. https://doi.org/10.14201/ADCAIJ201711229

Vaidhyanathan, S. (2018). *Antisocial Media.* Oxford University Press.

Vanberg, A. D. (2021). Informational Privacy Post GDPR - End of the Road or the Start of a Long Journey? *The International Journal of Human Rights*, 1 (25), 52–78 doi:10.1080/13642987.2020.1789109

Vargas Acosta, R. (2020). *Regulatory issues in matters of freedom of expression in Latin America 2010-2020.* Derechos Digitales.

Vivanco, Á. (2016). El Derecho al Olvido y el eventual poder que tenemos sobre nuestra propia "historia". *Sentencias Destacadas,* 349-382.

Watson D. (2012). Unpublishing requests are on the rise. *Columbia Journalism Review*, http://www.cjr.org/the_news_frontier/unpublishing_requests_are_on_t.php

Wu, A. X. & Taneja, H. (2021). Platform Enclosure of Human Behavior and Its Measurement: Using Behavioral Trace Data against Platform Episteme. *New Media & Society,* 23(9), 2650-2667. https://doi.org/10.1177/1461444820933547

Youm K.H. and Park, A. (2016). The 'Right to Be Forgotten' in European Union Law. *Journalism & Mass Communication Quarterly,* 2 (93), 273-295.

Yulchon LLC. (2017). Korea Communications Commission Releases Guidelines On The Right To Be Forgotten. Mondaq Business Briefing. https://bit.ly/3Hlijt7

Zalnieriute, M. (2020). Google LLC v. Commission Nationale De L'informatique Et Des Libertés (CNIL). *The American Journal of International Law,* 2 (114), 261-267.

Zelizer, B. (2017). *What Journalism Could Be.* Polity.

Zirugo, D. (2021). Subordinating Freedom of Expression to Human Dignity: Promoting or Undermining Journalism. A case of Zimbabwe. *African Journalism Studies,* 42(2), 43-58. https://doi.org/10.1080/23743670.2021.1939748

Zuboff, S. (2019). *The Age of Surveillance Capitalism.* Public Affairs.